

REMARKS

Claims 11, 29 and 31 have been amended, and new claims 35 and 36 have been added. Claims 1-12, 14-24, 26-27 and 28-36 are currently pending. Claims 1-10, 12, 14-24, 26-27 have been allowed and that claim 31 would be allowable if rewritten in independent form. Applicants thank the Examiner for the prompt indication of their allowance. Claims 13 and 25 have been previously cancelled.

Claims 11 and 29 have been amended to recite that the "conductive carrier comprises carbon powder" as noted in the Listing of the Claims section of this paper. Support for the foregoing amendments to claims 11 and 29 are found in the specification originally filed (reciting in relevant part):

The conductive carrier may be any conductive carrier which can support a mixture containing a particulate noble metal and at least one particulate rare-earth oxide; however, the carrier should have resistance to alkalis and to oxidation in order for use in a gas diffusion electrode for brine electrolysis. A metal powder such as nickel, a carbon powder, or the like may be used. Typically the fine particulate carbon is used. [(Applicants' specification originally filed from page 11, line 22 to page 12, line 1; emphasis added.)]

In view of the support for a conductive carrier in the form of carbon powder, the amendments to claim 11 do not introduce new matter. Similar amendments to claim 29 also do not introduce new matter.

Also, to overcome the objection to claim 31, claim 31 has been rewritten in independent form. Thus, claim 31 is now in condition for allowance.

Furthermore, new claims 35 and 36 are added depending on the allowable claim of 31.

In view of the above-noted support, no new matter (35 USC § 132) has been introduced.

Rejections under 35 U.S.C. § 102(b) over Nara et al. and separately over Nishiki

Claims 11, 30, and 32-34 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,312,571 to Nara et al., (hereinafter "Nara") for the reasons noted at pages 2-3 of the Office Action.

Claim 11, 28-30, and 32-34 are also rejected under 35 U.S.C. § 102(b) as being anticipated by European Patent No. 0 298 055 to Nishiki (hereinafter "Nishiki") for the reasons noted at pages 3-4 of the Office Action.

In the final Office Action, it is asserted that the combination of the nickel oxide interlayer and the underlying electrically conductive substrate of Nara is considered to be the conductive

carrier:

Even though the prior art of Nara et al includes an interlayer, the claim is anticipated since 'comprising' language has been used in the instant claim and therefore, this interlayer may be present since open claim language has been used and since the examiner is construing the [electrically conductive substrate] substrate and the [nickel oxide] interlayer to be the conductive carrier and therefore the [Applicants' claimed] catalyst [of claim 11 and claims depending therefrom except for claim 31] is on the conductive carrier as set forth in the instant claim as presented.

To expedite prosecution, Applicants have amended claims 11 (from which claims 28, and 30 and 32-34 ultimately depend) and 29 to recite that the conductive carrier comprises carbon powder.

In view of the foregoing, Applicants respectfully submit that claims 11, 28, 29, 30 and 32-34 (each reciting that the conductive carrier comprises carbon powder) are not anticipated by Nara or Nishiki because neither reference (alone or in combination) discloses, teaches or suggests the inclusion of a conductive carrier of carbon powder.

In view of the foregoing, Applicants respectfully submit that claims 11, 28, 29, 30 and 32-34 are patentably distinguished over Nara or Nishiki. Thus, Applicants respectfully request reconsideration and withdrawal of the rejection of record of claims 11, 28, 29, 30 and 32-34 under 35 USC § 102(b) over Nara or Nishiki (as applied).

Accordingly, Applicants respectfully request an indication of the allowance of claims 11, 28, 29, 30 and 32-36 together with the already acknowledgement of the allowance/allowability of the remaining pending claims.

Conclusion

In view of the foregoing, the Applicants respectfully submit that the application is in condition for allowance. A notice to that effect is respectfully requested.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned attorney at the number indicated.

No fees (or additional fees) are believed to be due for the filing of this paper. However, if any additional fees are required or an overpayment of fees made, please debit or credit our Deposit Account No. 19-3935, as needed.

Respectfully submitted,

STAAS & HALSEY LLP

Date: March 12 2008

By: MJH
Mark J. Henry
Registration No. 36,162

1201 New York Avenue, NW, 7th Floor
Washington, D.C. 20005

Telephone: (202) 434-1500
Facsimile: (202) 434-1501